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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/980,747	02/14/2002	Martin Fink	BP-63PCT	7590

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FRIEDRICH KUEFFNER
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NEW YORK, NY 10017

EXAMINER

STRIMBU, GREGORY J

ART UNIT	PAPER NUMBER
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3634

DATE MAILED: 09/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/980,747

Applicant(s)

FINK, MARTIN

Examiner

Gregory J. Strimbu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 April 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 8-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 8-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 8-20 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. It is unclear how the current supplied to the motor is reduced to the lower value FS. In other words, no apparatus for reducing the current supplied to the motor has been disclosed. It is unclear how a predetermined time interval is measured since no structure for measuring the time interval and description how that structure interacts with the door operator have been set forth. It is unclear how the speed of the train is measured since no structure for measuring the speed of the train and description how that structure interacts with the door operator have been set forth. It is unclear how the signal transponder located on the station platform interacts with the door operator since no structure for receiving a signal from the transponder has been disclosed.

It should be noted that attorney arguments cannot take the place of the describing the invention in the disclosure.

Claims 8-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claims are replete with 35 USC 112

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informalities. Therefore, it is requested the applicant rewrite the claims in light of the examples set forth below.

Recitations such as "a brake, coupling or other fixation" on lines 6-7 of claim 8 render the claims indefinite because it is unclear which one of the non-equivalent alternatives the applicant is attempting to positively set forth. Additionally, it is unclear what comprises "other fixation". Recitations such as "pinching" on line 9 of claim render the claims indefinite because it is unclear what element of the invention is pinched or does the pinching. Recitations such as "a door" on line 3 of claim 15 render the claims indefinite because it is unclear if the applicant is referring to the door set forth above or is attempting to set forth another door in addition to the one set forth above and because it is unclear if the applicant is claiming the subcombination of a control apparatus or the combination of a control apparatus and a door. The preamble of claim 1 implies the former while the positive recitations of the door imply the latter. Recitations such as "the fixed part" on line 6 of claim 15 render the claims indefinite because they lack antecedent basis.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claims 8, 12-15 and 18-20, as best understood by the examiner, are rejected under 35 U.S.C. 103(a) as being unpatentable over Graziano in view of Pitts. Graziano discloses a control apparatus comprising a door having a door leaf 1, a device 8a, 8b for determining door position, and a door drive having a current supply (not shown) operative so that as long as the door leaf is in within the end closing area, the current supply of the door drive and thus a closing force acting on the door leaf is reduced to a lower value. Graziano is silent concerning a brake and a free wheel.

However, Pitts discloses a free wheel (not numbered, but shown as the element which is engaged by the brake 37) operatively connected to a door leaf 5 so that movement of the door leaf in a closing direction is possible always, a brake 37 for the fixed part of the free wheel remote from the door leaf, the brake being engageable and disengageable, a movement of the door leaf in the opening direction only being possible when the brake is disengaged, the brake which acts on part of the free wheel remote from the door leaf being disengaged when the door leaf is in the end closing area.

It would have been obvious to one of ordinary skill in the art to provide Graziano with a free wheel brake mechanism, taught by Pitts, to prevent undesired movement of the sliding door.

With respect to claims 8 the use of the apparatus disclosed by Graziano, as modified above, would inherently lead to the method steps of claim 8.

With respect to claims 12 and 18 one of ordinary skill in the art is expected to routinely experiment with parameters so as to ascertain the optimum or workable ranges for a particular use. Accordingly, it would have been no more than an obvious

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matter of engineering design choice, as determined through routine experimentation and optimization, for one of ordinary skill to provide Graziano, as modified above, with a closing area of approximately 150 mm to prevent a person or object from being pinched between the door and the transit vehicle.

With respect to claims 12-14, 19 and 20 one of ordinary skill in the art is expected to routinely experiment with parameters so as to ascertain the optimum or workable ranges for a particular use. Accordingly, it would have been no more than an obvious matter of engineering design choice, as determined through routine experimentation and optimization, for one of ordinary skill to provide Graziano, as modified above, with a closing force of 50 N to 150 N to prevent injury to a person or damage to an object should the person or object be pinched between the door and the transit vehicle.

Claims 9-11, 16 and 17, as best understood by the examiner, are rejected under 35 U.S.C. 103(a) as being unpatentable over Graziano in view of Pitts as applied to claims 8, 12-15 and 18-20 above, and further in view of Rush et al. Rush et al. discloses a transit vehicle control system comprising a means for controlling the door of the vehicle based upon time, speed and a position of the vehicle with respect to the station.

It would have been obvious to one of ordinary skill in the art to provide Graziano, as modified above, with a control system, as taught by Rush et al., to provide an automated means for controlling the doors.

With respect to claims 9-11, the use of the apparatus disclosed by Graziano, as modified above, would inherently lead to the method steps of claims 9-11.

Response to Arguments

Applicant's arguments filed April 26, 2004 have been fully considered but they are not persuasive.

With respect to the applicant's comments regarding Graziano, the examiner respectfully disagrees. Merely because Graziano discloses additional elements, e.g., an elastic coupling 5, it does not prevent Graziano from operating as claimed by the applicant since the applicant has used the open ended language "comprising".

With respect to the applicant's comments concerning Pitts, the examiner respectfully disagrees. The "free wheel" is shown in figure 2 disposed around the motor drive shaft 18 and engaged with an end of the brake mechanism 37. It should be noted that the applicant has not disclosed what the "free wheel" comprises other than the circular element shown in figure 8. Additionally, it is unclear what comprises the "fixed part" of the free wheel.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action by presenting new claims 8-20. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory J. Strimbu whose telephone number is 703-305-3979. The examiner can normally be reached on Monday through Friday 8:00 to 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 703-308-2486. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Gregory J. Strimbu", with a long horizontal flourish extending to the right.

Gregory J. Strimbu
Primary Examiner
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September 20, 2004